



Agenda Date: 8/29/01

Agenda Item: 5A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102

IN THE MATTER OF THE PETITION OF)
 ROXITICUS WATER COMPANY FOR AN)
 INCREASE IN RATES AND CHARGES FOR)
 WATER SERVICE AND FOR AUTHORIZATION)
 TO ISSUE A PROMISSORY NOTE)

WATER/WASTEWATER
ORDER AUTHORIZING ISSUANCE
OF PROMISSORY NOTE

DOCKET NO. WF01030195

Douglas R. Kleinfeld, Kleinfeld & Kleinfeld, Esqs., for Petitioner, Roxiticus Water Company

Fred S. Grygiel, Chief Economist, Mark C. Beyer, Manager, Office of the Economist, and Michael Gallagher, Director, Division of Water and Wastewater, on behalf of the Staff of the Board of Public Utilities

BY THE BOARD:

On March 29, 2001, amended and supplemented up to August 16, 2001, Roxiticus Water Company (Petitioner), a public utility corporation of the State of New Jersey, filed a petition with the Board of Public Utilities (Board) containing two counts: (1) the first count seeking an increase in rates and charges for water service (assigned Docket No. WR01030194)¹; and (2) the second count seeking nunc pro tunc authorization to issue a Promissory Note, pursuant to N.J.S.A. 48:3-9 and N.J.A.C. 14:1-5.9 (assigned Docket No. WF01030195). This Order relates only to Docket No. WF01030195 concerning the Promissory Note.

Petitioner seeks authorization to issue a Promissory Note in the amount up to \$116,265 to its principal stockholder, David Jackson. The Promissory Note is for a term of five (5) years, maturing on December 31, 2005, at an annual interest rate of eight and one-half (8.5%) percent, payable quarterly (Promissory Note). It expressly provides, however, that interest is limited to the amount of Petitioner's positive utility operating income, and all interest earned above that amount is expressly waived.

The petition in this matter indicates that the proceeds of the Promissory Note were used to finance the construction of utility plant not funded by contributions in aid of construction.

Based on its review of the petition and Petitioner's responses to discovery requests, Staff is of the opinion that the terms of the Promissory Note are clearly reasonable in light of Petitioner's size, earnings history and prevailing economic conditions.

¹ The first count of the petition, which is for an increase in rates and charges for water service, was assigned Docket No. WR011030194 and has been transmitted to the Office of Administrative Law for disposition as a contested case.

In substance, as a result of the subject Promissory Note, capital financing for necessary plant construction was made available to Petitioner that, in all probability, would not have been available through conventional external sources.

By letter dated August 12, 2001, Petitioner requested that the petition be amended to request Board authority, nunc pro tunc, to issue Promissory Note as of December 31, 2000, up to \$116,265 at 8.5%.

In a letter dated July 31, 2001, the Division of the Ratepayer Advocate states it "...is not opposed to approval of the petition" and suggests the inclusion of certain conditions in the order. The conditions addressed in the Ratepayer Advocate's letter are included in this order.

The Board, after investigation of this matter, FINDS that the proposed transaction is in accordance with law, is not contrary to the public interest, and approving the purposes thereof, HEREBY AUTHORIZES, nunc pro tunc, Petitioner to issue the aforesaid Promissory Note in the amount up to \$116,265 to David Jackson as hereinabove described.

This Order is issued subject to the following provisions:

1. This Order shall not be construed as directly or indirectly fixing, for any purpose whatsoever, any value of the tangible or intangible assets now owned or hereafter to be owned by Petitioner.
2. This Order shall not be construed as a certification that the Promissory Note will be represented by tangible or intangible assets of commensurate value or investment costs.
3. This Order shall not affect nor in any way limit the exercise of the authority of this Board or of this State in any future petition or in any proceedings with respect to rates, franchises, services, accounting, financing, capitalization, depreciation, or in any other matters affecting the Petitioner.

4. Petitioner shall furnish the Board with a copy of the executed Promissory Note no later than sixty (60) days after the Board approval.

DATED: August 30, 2001

BOARD OF PUBLIC UTILITIES
BY:

[SIGNED]

CONNIE O. HUGHES
ACTING PRESIDENT

[SIGNED]

FREDERICK F. BUTLER
COMMISSIONER

[SIGNED]

CAROL J. MURPHY
COMMISSIONER

ATTEST:

[SIGNED]

FRANCES L. SMITH
BOARD SECRETARY